

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Stephanie Bowick

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11 Consumer Advocacy Group, Inc.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

10 CONSUMER ADVOCACY GROUP, INC.,
11 in the public interest,

12 Plaintiff,

13 v.

14 SAN GABRIEL SUPERSTORE, a Business
15 Entity Form Unknown;
16 SHUN FAT SUPERMARKET, INC., a
17 California Corporation;
18 TRAN'S FAMILY, INC., a California
19 Corporation;
20 WEI-CHUAN USA, INC., a California
21 Corporation;
22 SF SUPERMARKET, INC., a California
23 Corporation;
24 NEW WAY IMPORT, INC., a California
25 Corporation;
26 EL MONTE SUPERSTORE, INC., a
27 California Corporation;
28 ASIAN FINE FOODS, dba HOCEAN
CORPORATION, a California Corporation;
and DOES 1-80,

Defendants.

CASE NO. **19STCV38045**

COMPLAINT FOR PENALTY AND
INJUNCTION

Violation of Proposition 65, the Safe
Drinking Water and Toxic Enforcement
Act of 1986 (*Health & Safety Code*, §
25249.5, *et seq.*)

ACTION IS AN UNLIMITED CIVIL
CASE (exceeds \$25,000)

Plaintiff CONSUMER ADVOCACY GROUP, INC. alleges eight causes of action
against defendants SAN GABRIEL SUPERSTORE, SHUN FAT SUPERMARKET, INC.,
TRAN'S FAMILY, INC., WEI-CHUAN USA, INC., SF SUPERMARKET, INC., NEW WAY

1 IMPORT, INC., EL MONTE SUPERSTORE, INC., ASIAN FINE FOODS, dba HOCEAN
2 CORPORATION, and DOES 1-80 as follows:

3 **THE PARTIES**

- 4 1. Plaintiff CONSUMER ADVOCACY GROUP, INC. (“Plaintiff” or “CAG”) is an
5 organization qualified to do business in the State of California. CAG is a person within
6 the meaning of Health and Safety Code section 25249.11, subdivision (a). CAG, acting
7 as a private attorney general, brings this action in the public interest as defined under
8 Health and Safety Code section 25249.7, subdivision (d).
- 9 2. Defendant SAN GABRIEL SUPERSTORE (“SAN GABRIEL”) is a Business Entity
10 Form Unknown, doing business in the State of California at all relevant times herein.
- 11 3. Defendant SHUN FAT SUPERMARKET, INC. (“SHUN FAT”) is a California
12 Corporation, qualified to do business in California, and doing business in the State of
13 California at all relevant times herein.
- 14 4. Defendant TRAN’S FAMILY, INC. (“TRANS”) is a California Corporation, qualified to
15 do business in California, and doing business in the State of California at all relevant
16 times herein.
- 17 5. Defendant WEI-CHUAN USA, INC. (“WEI”) is a California Corporation, qualified to do
18 business in California, and doing business in the State of California at all relevant times
19 herein.
- 20 6. Defendant SF SUPERMARKET, INC. (“SF”) is a California Corporation, qualified to do
21 business in California, and doing business in the State of California at all relevant times
22 herein.
- 23 7. Defendant NEW WAY IMPORT, INC. (“NEW WAY”) is a California Corporation,
24 qualified to do business in California, and doing business in the State of California at all
25 relevant times herein.
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- 1 8. Defendant EL MONTE SUPERSTORE, INC. (“EL MONTE”) is a California
2 Corporation, qualified to do business in California, and doing business in the State of
3 California at all relevant times herein.
- 4 9. Defendant ASIAN FINE FOODS, dba HOCEAN CORPORATION (“ASIAN FINE”) is
5 a California Corporation, qualified to do business in California, and doing business in the
6 State of California at all relevant times herein.
- 7 10. Plaintiff is presently unaware of the true names and capacities of defendants DOES 1-80,
8 and therefore sues these defendants by such fictitious names. Plaintiff will amend this
9 complaint to allege their true names and capacities when ascertained. Plaintiff is
10 informed, believes, and thereon alleges that each fictitiously named defendant is
11 responsible in some manner for the occurrences herein alleged and the damages caused
12 thereby.
- 13 11. At all times mentioned herein, the term “Defendants” includes SAN GABRIEL, SHUN
14 FAT, TRANS, WEI, SF, NEW WAY, EL MONTE, ASIAN FINE, and DOES 1-80.
- 15 12. Plaintiff is informed and believes, and thereon alleges that each of the Defendants at all
16 times mentioned herein have conducted business within the State of California.
- 17 13. Upon information and belief, at all times relevant to this action, each of the Defendants,
18 including DOES 1-80, was an agent, servant, or employee of each of the other
19 Defendants. In conducting the activities alleged in this Complaint, each of the
20 Defendants was acting within the course and scope of this agency, service, or
21 employment, and was acting with the consent, permission, and authorization of each of
22 the other Defendants. All actions of each of the Defendants alleged in this Complaint
23 were ratified and approved by every other Defendant or their officers or managing agents.
24 Alternatively, each of the Defendants aided, conspired with and/or facilitated the alleged
25 wrongful conduct of each of the other Defendants.
- 26 14. Plaintiff is informed, believes, and thereon alleges that at all relevant times, each of the
27 Defendants was a person doing business within the meaning of Health and Safety Code
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1 Section 25249.11, subdivision (b), and that each of the Defendants had ten (10) or more
2 employees at all relevant times.

3 **JURISDICTION**

4 15. The Court has jurisdiction over this lawsuit pursuant to California Constitution Article
5 VI, Section 10, which grants the Superior Court original jurisdiction in all causes except
6 those given by statute to other trial courts. This Court has jurisdiction over this action
7 pursuant to Health and Safety Code Section 25249.7, which allows enforcement of
8 violations of Proposition 65 in any Court of competent jurisdiction.

9 16. This Court has jurisdiction over Defendants named herein because Defendants either
10 reside or are located in this State or are foreign corporations authorized to do business in
11 California, are registered with the California Secretary of State, or who do sufficient
12 business in California, have sufficient minimum contacts with California, or otherwise
13 intentionally avail themselves of the markets within California through their manufacture,
14 distribution, promotion, marketing, or sale of their products within California to render
15 the exercise of jurisdiction by the California courts permissible under traditional notions
16 of fair play and substantial justice.

17 17. Venue is proper in the County of Los Angeles because one or more of the instances of
18 wrongful conduct occurred, and continues to occur, in the County of Los Angeles and/or
19 because Defendants conducted, and continue to conduct, business in the County of Los
20 Angeles with respect to the consumer product that is the subject of this action.

21 **BACKGROUND AND PRELIMINARY FACTS**

22 18. In 1986, California voters approved an initiative to address growing concerns about
23 exposure to toxic chemicals and declared their right “[t]o be informed about exposures to
24 chemicals that cause cancer, birth defects, or other reproductive harm.” Ballot Pamp.,
25 Proposed Law, Gen. Elec. (Nov. 4, 1986) at p. 3. The initiative, The Safe Drinking
26 Water and Toxic Enforcement Act of 1986, codified at Health and Safety Code Sections
27 25249.5, *et seq.* (“Proposition 65”), helps to protect California’s drinking water sources
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1 from contamination, to allow consumers to make informed choices about the products
2 they buy, and to enable persons to protect themselves from toxic chemicals as they see
3 fit.

4 19. Proposition 65 requires the Governor of California to publish a list of chemicals known to
5 the state to cause cancer, birth defects, or other reproductive harm. *Health & Safety Code*
6 § 25249.8. The list, which the Governor updates at least once a year, contains over 700
7 chemicals and chemical families. Proposition 65 imposes warning requirements and
8 other controls that apply to Proposition 65-listed chemicals.

9 20. All businesses with ten (10) or more employees that operate or sell products in California
10 must comply with Proposition 65. Under Proposition 65, businesses are: (1) prohibited
11 from knowingly discharging Proposition 65-listed chemicals into sources of drinking
12 water (*Health & Safety Code* § 25249.5), and (2) required to provide “clear and
13 reasonable” warnings before exposing a person, knowingly and intentionally, to a
14 Proposition 65-listed chemical (*Health & Safety Code* § 25249.6).

15 21. Proposition 65 provides that any person "violating or threatening to violate" the statute
16 may be enjoined in any court of competent jurisdiction. *Health & Safety Code* § 25249.7.
17 "Threaten to violate" means "to create a condition in which there is a substantial
18 probability that a violation will occur." *Health & Safety Code* § 25249.11(e).
19 Defendants are also liable for civil penalties of up to \$2,500.00 per day per violation,
20 recoverable in a civil action. *Health & Safety Code* § 25249.7(b).

21 22. Plaintiff identified certain practices of manufacturers and distributors of exposing,
22 knowingly and intentionally, persons in California to Lead and Lead Compounds
23 (“Lead”) and Cadmium and Cadmium Compounds (“Cadmium”) without first providing
24 clear and reasonable warnings of such to the exposed persons prior to the time of
25 exposure. Plaintiff later discerned that Defendants engaged in such practice.

26 23. On February 27, 1987, the Governor of California added Lead to the list of chemicals
27 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs.* tit.

1 27, § 27001(b)). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
2 twenty (20) months after addition of Lead to the list of chemicals known to the State to
3 cause toxicity, Lead became fully subject to Proposition 65 warning requirements and
4 discharge prohibitions.

5 24. On October 1, 1987, the Governor of California added Cadmium to the list of chemicals
6 known to the State to cause cancer (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to
7 Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after
8 addition of Cadmium to the list of chemicals known to the State to cause cancer,
9 Cadmium became fully subject to Proposition 65 warning requirements and discharge
10 prohibitions.

11 25. On May 1, 1997, the Governor of California added Cadmium to the list of chemicals
12 known to the State to cause developmental and reproductive toxicity (*Cal. Code Regs. tit.*
13 *27, § 27001(b)*). Pursuant to Health and Safety Code sections 25249.9 and 25249.10,
14 twenty (20) months after addition of Cadmium to the list of chemicals known to the State
15 to cause toxicity, Cadmium became fully subject to Proposition 65 warning requirements
16 and discharge prohibitions.

17 26. On October 1, 1992, the Governor of California added Lead to the list of chemicals
18 known to the State to cause cancer (*Cal. Code Regs. tit. 27, § 27001(b)*). Pursuant to
19 Health and Safety Code sections 25249.9 and 25249.10, twenty (20) months after
20 addition of Lead to the list of chemicals known to the State to cause cancer, Lead became
21 fully subject to Proposition 65 warning requirements and discharge prohibitions.

22 **SATISFACTION OF PRIOR NOTICE**

23 27. On or about May 22, 2019, Plaintiff gave notice of alleged violations of Health and
24 Safety Code Section 25249.6, concerning consumer products exposures, subject to a
25 private action to NEW WAY, TRANS, SHUN FAT, and to the California Attorney
26 General, County District Attorneys, and City Attorneys for each city containing a
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1 population of at least 750,000 people in whose jurisdictions the violations allegedly
2 occurred, concerning the product Dried Seaweed.

3 28. On or about May 22, 2019, Plaintiff gave notice of alleged violations of Health and
4 Safety Code Section 25249.6, concerning consumer products exposures, subject to a
5 private action to SAN GABRIEL, SHUN FAT, and to the California Attorney General,
6 County District Attorneys, and City Attorneys for each city containing a population of at
7 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
8 the product Ground Sage.

9 29. On or about May 30, 2019, Plaintiff gave notice of alleged violations of Health and
10 Safety Code Section 25249.6, concerning consumer products exposures, subject to a
11 private action to WEI, TRANS, SHUN FAT, SF, and to the California Attorney General,
12 County District Attorneys, and City Attorneys for each city containing a population of at
13 least 750,000 people in whose jurisdictions the violations allegedly occurred, concerning
14 the product Sandless Laver.

15 30. On or about June 7, 2019, Plaintiff gave notice of alleged violations of Health and Safety
16 Code Section 25249.6, concerning consumer products exposures, subject to a private
17 action to TRANS, SF, and to the California Attorney General, County District Attorneys,
18 and City Attorneys for each city containing a population of at least 750,000 people in
19 whose jurisdictions the violations allegedly occurred, concerning the product Dried
20 Seaweed.

21 31. On or about August 12, 2019, Plaintiff gave notice of alleged violations of Health and
22 Safety Code Section 25249.6, concerning consumer products exposures, subject to a
23 private action to SHUN FAT, ASIAN FINE, SF, EL MONTE, and to the California
24 Attorney General, County District Attorneys, and City Attorneys for each city containing
25 a population of at least 750,000 people in whose jurisdictions the violations allegedly
26 occurred, concerning the product Dried Anchovy.

1 32. Before sending the notices of alleged violation, Plaintiff investigated the consumer
2 products involved, the likelihood that such products would cause users to suffer
3 significant exposures to Lead and/or Cadmium, and the corporate structure of each of the
4 Defendants.

5 33. Plaintiff's notice of alleged violation included a Certificate of Merit executed by the
6 attorney for the noticing party, CAG. The Certificate of Merit stated that the attorney for
7 Plaintiff who executed the certificate had consulted with at least one person with relevant
8 and appropriate expertise who reviewed data regarding the exposures to Lead and/or
9 Cadmium, the subject Proposition 65-listed chemical of this action. Based on that
10 information, the attorney for Plaintiff who executed the Certificate of Merit believed
11 there was a reasonable and meritorious case for this private action. The attorney for
12 Plaintiff attached to the Certificate of Merit served on the Attorney General the
13 confidential factual information sufficient to establish the basis of the Certificate of
14 Merit.

15 34. Plaintiff's notices of alleged violations also included a Certificate of Service and a
16 document entitled "The Safe Drinking Water & Toxic Enforcement Act of 1986
17 (Proposition 65) A Summary." *Health & Safety Code* § 25249.7(d).

18 35. Plaintiff is commencing this action more than sixty (60) days from the dates that Plaintiff
19 gave notices of the alleged violations to SAN GABRIEL, SHUN FAT, TRANS, WEI,
20 SF, NEW WAY, EL MONTE, ASIAN FINE, and the public prosecutors referenced in
21 Paragraphs 27-31.

22 36. Plaintiff is informed, believes, and thereon alleges that neither the Attorney General, nor
23 any applicable district attorney or city attorney has commenced and is diligently
24 prosecuting an action against the Defendants.

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1 **FIRST CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against NEW WAY, TRANS, SHUN**
3 **FAT, and DOES 1-10 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Seaweed I**

6 37. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 36 of this Complaint as though fully set forth herein.

8 38. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Dried Seaweed including but not limited to: “Dried
10 Seaweed”; “Net wt: 2oz (60g); “Product of China”; “Importer: New Way Import, Inc.”;
11 “UPC 6 946886 288 825” (“Seaweed I”).

12 39. Seaweed I contains Cadmium.

13 40. Defendants knew or should have known that Cadmium has been identified by the State of
14 California as a chemical known to cause cancer and reproductive and developmental
15 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
16 were also informed of the presence of Cadmium in Seaweed I within Plaintiff’s notice of
17 alleged violations further discussed above at Paragraph 27.

18 41. Plaintiff’s allegations regarding Seaweed I concerns “[c]onsumer products exposure[s],”
19 which “is an exposure that results from a person’s acquisition, purchase, storage,
20 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
21 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
22 Seaweed I is a consumer product, and, as mentioned herein, exposures to Cadmium took
23 place as a result of such normal and foreseeable consumption and use.

24 42. Plaintiff is informed, believes, and thereon alleges that between May 22, 2016 and the
25 present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Seaweed I, which Defendants manufactured, distributed, or sold
27 as mentioned above, to Cadmium, without first providing any type of clear and
28 reasonable warning of such to the exposed persons before the time of exposure.

1 Defendants have distributed and sold Seaweed I in California. Defendants know and
2 intend that California consumers will use and consume Seaweed I, thereby exposing them
3 to Cadmium. Defendants thereby violated Proposition 65.

4 43. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
5 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating
6 and consuming Seaweed I, and additionally by handling Seaweed I without wearing
7 gloves or any other personal protective equipment, or by touching bare skin or mucous
8 membranes with gloves after handling Seaweed I, as well as through direct and indirect
9 hand to mouth contact, hand to mucous membrane, or even breathing in particulate
10 matter dispersed from Seaweed I.

11 44. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
12 Proposition 65 as to Seaweed I has been ongoing and continuous, as Defendants engaged
13 and continue to engage in conduct which violates Health and Safety Code Section
14 25249.6, including the manufacture, distribution, promotion, and sale of Seaweed I, so
15 that a separate and distinct violation of Proposition 65 occurred each and every time a
16 person was exposed to Cadmium by Seaweed I as mentioned herein.

17 45. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
18 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
19 violations alleged herein will continue to occur into the future.

20 46. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to Cadmium from Seaweed I, pursuant to
22 Health and Safety Code Section 25249.7(b).

23 47. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
24 filing this Complaint.

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1 **SECOND CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against NEW WAY, TRANS, SHUN**
3 **FAT, and DOES 11-20 for Violations of Proposition 65, The Safe Drinking Water and**
4 **Toxic Enforcement Act of 1986 (Health & Safety Code, §§ 25249.5, et seq.))**

5 **Seaweed I**

6 48. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 47 of this Complaint as though fully set forth herein.

8 49. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Dried Seaweed including but not limited to: “Dried
10 Seaweed”; “Net wt: 2oz (60g); “Product of China”; “Importer: New Way Import, Inc.”;
11 “UPC 6 946886 288 825” (“Seaweed I”).

12 50. Seaweed I contains Lead.

13 51. Defendants knew or should have known that Lead has been identified by the State of
14 California as a chemical known to cause cancer and reproductive and developmental
15 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
16 were also informed of the presence of Lead in Seaweed I within Plaintiff's notice of
17 alleged violations further discussed above at Paragraph 27.

18 52. Plaintiff's allegations regarding Seaweed I concerns “[c]onsumer products exposure[s],”
19 which “is an exposure that results from a person’s acquisition, purchase, storage,
20 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
21 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
22 Seaweed I is a consumer product, and, as mentioned herein, exposures to Lead took place
23 as a result of such normal and foreseeable consumption and use.

24 53. Plaintiff is informed, believes, and thereon alleges that between May 22, 2016 and the
25 present, each of the Defendants knowingly and intentionally exposed California
26 consumers and users of Seaweed I, which Defendants manufactured, distributed, or sold
27 as mentioned above, to Lead, without first providing any type of clear and reasonable
28 warning of such to the exposed persons before the time of exposure. Defendants have

1 distributed and sold Seaweed I in California. Defendants know and intend that California
2 consumers will use and consume Seaweed I, thereby exposing them to Lead. Defendants
3 thereby violated Proposition 65.

4 54. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
5 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating
6 and consuming Seaweed I, and additionally by handling Seaweed I without wearing
7 gloves or any other personal protective equipment, or by touching bare skin or mucous
8 membranes with gloves after handling Seaweed I, as well as through direct and indirect
9 hand to mouth contact, hand to mucous membrane, or even breathing in particulate
10 matter dispersed from Seaweed I.

11 55. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
12 Proposition 65 as to Seaweed I has been ongoing and continuous, as Defendants engaged
13 and continue to engage in conduct which violates Health and Safety Code Section
14 25249.6, including the manufacture, distribution, promotion, and sale of Seaweed I, so
15 that a separate and distinct violation of Proposition 65 occurred each and every time a
16 person was exposed to Lead by Seaweed I as mentioned herein.

17 56. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
18 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
19 violations alleged herein will continue to occur into the future.

20 57. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to Lead from Seaweed I, pursuant to Health
22 and Safety Code Section 25249.7(b).

23 58. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
24 filing this Complaint.

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1 **THIRD CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against SAN GABRIEL, SHUN FAT,**
3 **and DOES 21-30 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Ground Spices**

6 59. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 58 of this Complaint as though fully set forth herein.

8 60. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Ground Sage identified as: “Durkee Sage 0.50 oz
10 (15g); “Quality Spices”; www.durkee.com; “4L08B”; “UPC 0 47600 62218 8” (“Sage”).

11 61. The scope of the Third Cause of Action as to Ground Sage is limited to the specific UPC
12 Number “0 47600 62218 8” and the specific Lot Number “4L08B”.

13 62. Sage contains Lead.

14 63. Defendants knew or should have known that Lead has been identified by the State of
15 California as a chemical known to cause cancer and reproductive and developmental
16 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
17 were also informed of the presence of Lead in Sage within Plaintiff’s notice of alleged
18 violations further discussed above at Paragraph 28.

19 64. Plaintiff’s allegations regarding Sage concerns “[c]onsumer products exposure[s],” which
20 “is an exposure that results from a person’s acquisition, purchase, storage, consumption,
21 or other reasonably foreseeable use of a consumer good, or any exposure that results from
22 receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*. Sage is a consumer
23 product, and, as mentioned herein, exposures to Lead took place as a result of such
24 normal and foreseeable consumption and use.

25 65. Plaintiff is informed, believes, and thereon alleges that between May 22, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Sage, which Defendants manufactured, distributed, or sold as
28 mentioned above, to Lead, without first providing any type of clear and reasonable

1 warning of such to the exposed persons before the time of exposure. Defendants have
2 distributed and sold Sage in California. Defendants know and intend that California
3 consumers will use and consume Sage, thereby exposing them to Lead. Defendants
4 thereby violated Proposition 65.

5 66. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
6 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating
7 and consuming Sage, and additionally by handling Sage without wearing gloves or any
8 other personal protective equipment, or by touching bare skin or mucous membranes with
9 gloves after handling Sage, as well as through direct and indirect hand to mouth contact,
10 hand to mucous membrane, or even breathing in particulate matter dispersed from Sage.

11 67. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
12 Proposition 65 as to Sage has been ongoing and continuous, as Defendants engaged and
13 continue to engage in conduct which violates Health and Safety Code Section 25249.6,
14 including the manufacture, distribution, promotion, and sale of Sage, so that a separate
15 and distinct violation of Proposition 65 occurred each and every time a person was
16 exposed to Lead by Sage as mentioned herein.

17 68. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
18 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
19 violations alleged herein will continue to occur into the future.

20 69. Based on the allegations herein, Defendants are liable for civil penalties of up to
21 \$2,500.00 per day per individual exposure to Lead from Sage, pursuant to Health and
22 Safety Code Section 25249.7(b).

23 70. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
24 filing this Complaint.

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1 **FOURTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against WEI, SHUN FAT, TRANS, SF,**
3 **and DOES 31-40 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Seaweed II**

6 71. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 70 of this Complaint as though fully set forth herein.

8 72. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Sandless Laver including but not limited to: “Wei-
10 Chuan Premium Sandless Laver”; “Net Wt: 1.76 oz (50g)”; “Packed for: Wei-Chuan,
11 U.S.A, Inc. Commerce, CA 90040”; “UPC 0 72869 23121 5”; “Made in China”
12 (“Seaweed II”).

13 73. Seaweed II contains Cadmium.

14 74. Defendants knew or should have known that Cadmium has been identified by the State of
15 California as a chemical known to cause cancer and reproductive and developmental
16 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
17 were also informed of the presence of Cadmium in Seaweed II within Plaintiff’s notice of
18 alleged violations further discussed above at Paragraph 29.

19 75. Plaintiff’s allegations regarding Seaweed II concerns “[c]onsumer products exposure[s],”
20 which “is an exposure that results from a person’s acquisition, purchase, storage,
21 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
22 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
23 Seaweed II is a consumer product, and, as mentioned herein, exposures to Cadmium took
24 place as a result of such normal and foreseeable consumption and use.

25 76. Plaintiff is informed, believes, and thereon alleges that between May 30, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Seaweed II, which Defendants manufactured, distributed, or sold
28 as mentioned above, to Cadmium, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.

2 Defendants have distributed and sold Seaweed II in California. Defendants know and
3 intend that California consumers will use and consume Seaweed II, thereby exposing
4 them to Cadmium. Defendants thereby violated Proposition 65.

5 77. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
6 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating
7 and consuming Seaweed II, and additionally by handling Seaweed II without wearing
8 gloves or any other personal protective equipment, or by touching bare skin or mucous
9 membranes with gloves after handling Seaweed II, as well as through direct and indirect
10 hand to mouth contact, hand to mucous membrane, or even breathing in particulate
11 matter dispersed from Seaweed II.

12 78. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
13 Proposition 65 as to Seaweed II has been ongoing and continuous, as Defendants engaged
14 and continue to engage in conduct which violates Health and Safety Code Section
15 25249.6, including the manufacture, distribution, promotion, and sale of Seaweed II, so
16 that a separate and distinct violation of Proposition 65 occurred each and every time a
17 person was exposed to Cadmium by Seaweed II as mentioned herein.

18 79. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
19 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
20 violations alleged herein will continue to occur into the future.

21 80. Based on the allegations herein, Defendants are liable for civil penalties of up to
22 \$2,500.00 per day per individual exposure to Cadmium from Seaweed II, pursuant to
23 Health and Safety Code Section 25249.7(b).

24 81. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
25 filing this Complaint.

1 **FIFTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against WEI, SHUN FAT, TRANS, SF,**
3 **and DOES 41-50 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code, §§ 25249.5, et seq.*))**

5 **Seaweed II**

6 82. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 81 of this Complaint as though fully set forth herein.

8 83. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Sandless Laver including but not limited to: “Wei-
10 Chuan Premium Sandless Laver”; “Net Wt: 1.76 oz (50g)”; “Packed for: Wei-Chuan,
11 U.S.A, Inc. Commerce, CA 90040”; “UPC 0 72869 23121 5”; “Made in China”
12 (“Seaweed II”).

13 84. Seaweed II contains Lead.

14 85. Defendants knew or should have known that Lead has been identified by the State of
15 California as a chemical known to cause cancer and reproductive and developmental
16 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
17 were also informed of the presence of Lead in Seaweed II within Plaintiff’s notice of
18 alleged violations further discussed above at Paragraph 29.

19 86. Plaintiff’s allegations regarding Seaweed II concerns “[c]onsumer products exposure[s],”
20 which “is an exposure that results from a person’s acquisition, purchase, storage,
21 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
22 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
23 Seaweed II is a consumer product, and, as mentioned herein, exposures to Lead took
24 place as a result of such normal and foreseeable consumption and use.

25 87. Plaintiff is informed, believes, and thereon alleges that between May 30, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Seaweed II, which Defendants manufactured, distributed, or sold
28 as mentioned above, to Lead, without first providing any type of clear and reasonable

1 warning of such to the exposed persons before the time of exposure. Defendants have
2 distributed and sold Seaweed II in California. Defendants know and intend that
3 California consumers will use and consume Seaweed II, thereby exposing them to Lead.
4 Defendants thereby violated Proposition 65.

5 88. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
6 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating
7 and consuming Seaweed II, and additionally by handling Seaweed II without wearing
8 gloves or any other personal protective equipment, or by touching bare skin or mucous
9 membranes with gloves after handling Seaweed II, as well as through direct and indirect
10 hand to mouth contact, hand to mucous membrane, or even breathing in particulate
11 matter dispersed from Seaweed II.

12 89. Plaintiff is informed, believes, and thereon alleges that each of Defendants' violations of
13 Proposition 65 as to Seaweed II has been ongoing and continuous, as Defendants engaged
14 and continue to engage in conduct which violates Health and Safety Code Section
15 25249.6, including the manufacture, distribution, promotion, and sale of Seaweed II, so
16 that a separate and distinct violation of Proposition 65 occurred each and every time a
17 person was exposed to Lead by Seaweed II as mentioned herein.

18 90. Plaintiff is informed, believes, and thereon alleges that each violation of Proposition 65
19 mentioned herein is ever continuing. Plaintiff further alleges and believes that the
20 violations alleged herein will continue to occur into the future.

21 91. Based on the allegations herein, Defendants are liable for civil penalties of up to
22 \$2,500.00 per day per individual exposure to Lead from Seaweed II, pursuant to Health
23 and Safety Code Section 25249.7(b).

24 92. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein prior to
25 filing this Complaint.

1 **SIXTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against TRANS, SF, and DOES 51-60**
3 **for Violations of Proposition 65, The Safe Drinking Water and Toxic Enforcement Act of**
4 **1986 (Health & Safety Code, §§ 25249.5, et seq.))**

5 **Seaweed III**

6 93. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 92 of this Complaint as though fully set forth herein.

8 94. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Dried Seaweed including but not limited to: “Hanheng
10 Taste™”; “Wildness Superfine”; “Dried Seaweed Net Weight: 60G (20oz)”;
11 “Distributed by: Zap Expo Center, Inc.”; UPC “6 930248 6871810”; “Product of China”
12 (“Seaweed III”).

13 95. Seaweed III contains Cadmium.

14 96. Defendants knew or should have known that Cadmium has been identified by the State of
15 California as a chemical known to cause cancer and reproductive and developmental
16 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
17 were also informed of the presence of Cadmium in Seaweed III within Plaintiff’s notice
18 of alleged violations further discussed above at Paragraph 30.

19 97. Plaintiff’s allegations regarding Seaweed II concerns “[c]onsumer products exposure[s],”
20 which “is an exposure that results from a person’s acquisition, purchase, storage,
21 consumption, or other reasonably foreseeable use of a consumer good, or any exposure
22 that results from receiving a consumer service.” *Cal. Code Regs. tit. 27, § 25602(b)*.
23 Seaweed III is a consumer product, and, as mentioned herein, exposures to Cadmium
24 took place as a result of such normal and foreseeable consumption and use.

25 98. Plaintiff is informed, believes, and thereon alleges that between June 17, 2016 and the
26 present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Seaweed III, which Defendants manufactured, distributed, or sold
28 as mentioned above, to Cadmium, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.

2 Defendants have distributed and sold Seaweed III in California. Defendants know and
3 intend that California consumers will use and consume Seaweed III, thereby exposing
4 them to Cadmium. Defendants thereby violated Proposition 65.

5 99. The principal routes of exposure are through ingestion, especially direct (oral) ingestion,
6 inhalation, and trans-dermal absorption. Persons sustain exposures primarily by eating
7 and consuming Seaweed III, and additionally by handling Seaweed III without wearing
8 gloves or any other personal protective equipment, or by touching bare skin or mucous
9 membranes with gloves after handling Seaweed III, as well as through direct and indirect
10 hand to mouth contact, hand to mucous membrane, or even breathing in particulate
11 matter dispersed from Seaweed III.

12 100. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
13 violations of Proposition 65 as to Seaweed III has been ongoing and continuous, as
14 Defendants engaged and continue to engage in conduct which violates Health and Safety
15 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of
16 Seaweed III, so that a separate and distinct violation of Proposition 65 occurred each and
17 every time a person was exposed to Cadmium by Seaweed III as mentioned herein.

18 101. Plaintiff is informed, believes, and thereon alleges that each violation of
19 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and believes
20 that the violations alleged herein will continue to occur into the future.

21 102. Based on the allegations herein, Defendants are liable for civil penalties of up to
22 \$2,500.00 per day per individual exposure to Cadmium from Seaweed III, pursuant to
23 Health and Safety Code Section 25249.7(b).

24 103. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
25 prior to filing this Complaint.
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1 **SEVENTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against TRANS, SF, and DOES**
3 **61-70 for Violations of Proposition 65, The Safe Drinking Water and Toxic**
4 **Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et seq.*))**

5 **Seaweed III**

6 104. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
7 reference paragraphs 1 through 103 of this Complaint as though fully set forth herein.

8 105. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
9 distributor, promoter, or retailer of Dried Seaweed including but not limited to: “Hanheng
10 Taste™”; “Wildness Superfine”; “Dried Seaweed Net Weight: 60G (20oz)”;
11 “Distributed by: Zap Expo Center, Inc.”; UPC “6 930248 6871810”; “Product of China”
12 (“Seaweed III”).

13 106. Seaweed III contains Lead.

14 107. Defendants knew or should have known that Lead has been identified by the State
15 of California as a chemical known to cause cancer and reproductive and developmental
16 toxicity and therefore was subject to Proposition 65 warning requirements. Defendants
17 were also informed of the presence of Lead in Seaweed III within Plaintiff’s notice of
18 alleged violations further discussed above at Paragraph 30.

19 108. Plaintiff’s allegations regarding Seaweed III concerns “[c]onsumer products
20 exposure[s],” which “is an exposure that results from a person’s acquisition, purchase,
21 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
22 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
23 25602(b). Seaweed III is a consumer product, and, as mentioned herein, exposures to
24 Lead took place as a result of such normal and foreseeable consumption and use.

25 109. Plaintiff is informed, believes, and thereon alleges that between June 17, 2016 and
26 the present, each of the Defendants knowingly and intentionally exposed California
27 consumers and users of Seaweed III, which Defendants manufactured, distributed, or sold
28 as mentioned above, to Lead, without first providing any type of clear and reasonable

1 warning of such to the exposed persons before the time of exposure. Defendants have
2 distributed and sold Seaweed III in California. Defendants know and intend that
3 California consumers will use and consume Seaweed III, thereby exposing them to Lead.
4 Defendants thereby violated Proposition 65.

5 110. The principal routes of exposure are through ingestion, especially direct (oral)
6 ingestion, inhalation, and trans-dermal absorption. Persons sustain exposures primarily by
7 eating and consuming Seaweed III, and additionally by handling Seaweed III without
8 wearing gloves or any other personal protective equipment, or by touching bare skin or
9 mucous membranes with gloves after handling Seaweed III, as well as through direct and
10 indirect hand to mouth contact, hand to mucous membrane, or even breathing in
11 particulate matter dispersed from Seaweed III.

12 111. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
13 violations of Proposition 65 as to Seaweed III has been ongoing and continuous, as
14 Defendants engaged and continue to engage in conduct which violates Health and Safety
15 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of
16 Seaweed III, so that a separate and distinct violation of Proposition 65 occurred each and
17 every time a person was exposed to Lead by Seaweed III as mentioned herein.

18 112. Plaintiff is informed, believes, and thereon alleges that each violation of
19 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and believes
20 that the violations alleged herein will continue to occur into the future.

21 113. Based on the allegations herein, Defendants are liable for civil penalties of up to
22 \$2,500.00 per day per individual exposure to Lead from Seaweed III, pursuant to Health
23 and Safety Code Section 25249.7(b).

24 114. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
25 prior to filing this Complaint.
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1 **EIGHTH CAUSE OF ACTION**

2 **(By CONSUMER ADVOCACY GROUP, INC. and against SF, ASIAN FINE, EL**
3 **MONTE, SHUN FAT, and DOES 71-80 for Violations of Proposition 65, The Safe**
4 **Drinking Water and Toxic Enforcement Act of 1986 (*Health & Safety Code*, §§ 25249.5, *et***
5 ***seq.*))**

6 **Seafood Products**

7 115. Plaintiff CONSUMER ADVOCACY GROUP, INC. repeats and incorporates by
8 reference paragraphs 1 through 114 of this Complaint as though fully set forth herein.

9 116. Each of the Defendants is, and at all times mentioned herein was, a manufacturer,
10 distributor, promoter, or retailer of Dried Anchovy including but not limited to: “DRIED
11 ANCHOVY;” “DISTRIBUTED BY: A.F.F. L.A. CA 90040”; “INGREDIENT :
12 ANCHOVY, SALT;” “NET WT : 3 OZ (85G);” “PRODUCT OF MALAYSIA;” “0
13 45027 80521 4” (“Anchovies”).

14 117. Anchovies contain Cadmium.

15 118. Defendants knew or should have known that Cadmium has been identified by the
16 State of California as a chemical known to cause cancer and reproductive and
17 developmental toxicity and therefore was subject to Proposition 65 warning
18 requirements. Defendants were also informed of the presence of Cadmium in Anchovies
19 within Plaintiff's notice of alleged violations further discussed above at Paragraph 31.

20 119. Plaintiff's allegations regarding Anchovies concerns “[c]onsumer products
21 exposure[s],” which “is an exposure that results from a person's acquisition, purchase,
22 storage, consumption, or other reasonably foreseeable use of a consumer good, or any
23 exposure that results from receiving a consumer service.” *Cal. Code Regs.* tit. 27, §
24 25602(b). Anchovies are a consumer product, and, as mentioned herein, exposures to
25 Cadmium took place as a result of such normal and foreseeable consumption and use.

26 120. Plaintiff is informed, believes, and thereon alleges that between August 12, 2016
27 and the present, each of the Defendants knowingly and intentionally exposed California
28 consumers and users of Anchovies, which Defendants manufactured, distributed, or sold
as mentioned above, to Cadmium, without first providing any type of clear and

1 reasonable warning of such to the exposed persons before the time of exposure.

2 Defendants have distributed and sold Anchovies in California. Defendants know and
3 intend that California consumers will use and consume Anchovies, thereby exposing
4 them to Cadmium. Defendants thereby violated Proposition 65.

5 121. The principal routes of exposure are through ingestion, especially direct (oral)
6 ingestion, inhalation, and trans-dermal absorption. Persons sustain exposures primarily by
7 eating and consuming Anchovies, and additionally by handling Anchovies without
8 wearing gloves or any other personal protective equipment, or by touching bare skin or
9 mucous membranes with gloves after handling Anchovies, as well as through direct and
10 indirect hand to mouth contact, hand to mucous membrane, or even breathing in
11 particulate matter dispersed from Anchovies.

12 122. Plaintiff is informed, believes, and thereon alleges that each of Defendants'
13 violations of Proposition 65 as to Anchovies has been ongoing and continuous, as
14 Defendants engaged and continue to engage in conduct which violates Health and Safety
15 Code Section 25249.6, including the manufacture, distribution, promotion, and sale of
16 Anchovies, so that a separate and distinct violation of Proposition 65 occurred each and
17 every time a person was exposed to Cadmium by Anchovies as mentioned herein.

18 123. Plaintiff is informed, believes, and thereon alleges that each violation of
19 Proposition 65 mentioned herein is ever continuing. Plaintiff further alleges and believes
20 that the violations alleged herein will continue to occur into the future.

21 124. Based on the allegations herein, Defendants are liable for civil penalties of up to
22 \$2,500.00 per day per individual exposure to Cadmium from Anchovies, pursuant to
23 Health and Safety Code Section 25249.7(b).

24 125. Plaintiff has engaged in good faith efforts to resolve the claims alleged herein
25 prior to filing this Complaint.

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PRAYER FOR RELIEF

Plaintiff demands against each of the Defendants as follows:

1. A permanent injunction mandating Proposition 65-compliant warnings;
2. Penalties pursuant to Health and Safety Code section 25249.7, subdivision (b);
3. Costs of suit;
4. Reasonable attorney fees and costs; and
5. Any further relief that the court may deem just and equitable.

Dated: 10-23, 2019

YEROUSHALMI & YEROUSHALMI

BY: 
Reuben Yeroushalmi
Attorneys for Plaintiff,
Consumer Advocacy Group, Inc.